

December 16, 2004

The Honorable Mitt Romney
State House, Room 360
Office of the Governor
Boston, MA 02133

Re: Regional Approach to LNG Imports and Facilities

Dear Governor Romney:

I write this letter to urge each Governor, individually and through the New England Governors' Conference, to adopt and implement a regional approach to matters involving liquefied natural gas (LNG), including tanker traffic in our waterways and the siting of new regasification terminals for marine imports (Regional Approach). The need for such a Regional Approach has been heightened by the favorable assessment on the part of Federal Energy Regulatory Commission (FERC) of two terminals in populated areas, Fall River, Massachusetts (Weaver's Cove) and Providence, Rhode Island (KeySpan) despite wide-spread and legitimate safety and security objections. A regional approach would be consistent with other work already initiated through the Governors' conference.

In recent years, the citizens of New England have paid extraordinarily high prices for natural gas and have been subject to threats of service disruptions, caused by a combination of inadequate domestic supplies and constrained pipeline infrastructure in our region. Regrettably, conservation, improved efficiency, and renewable energy can offer only limited relief in the near- and mid-term, as we face another winter of potentially record prices.

Although I recognize the serious energy problem our region faces, I strongly believe that citing new LNG terminals in populated areas is not the solution. I am opposed to both the Fall River and Providence proposals because critical safety and security concerns have not been addressed adequately.

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The only viable solution appears to be the increased importation into New England of LNG regasified at and piped from marine terminals onshore in our States, offshore, and in southeastern Canada. It is generally recognized that two additional LNG marine terminals (Terminals or Import Terminals) for our region should be adequate to meet our incremental natural gas requirements for the foreseeable future.

LNG vessel traffic and the siting of Terminals, however, have posed legitimate environmental, safety, security and life-style concerns. Fears about the consequences of a terrorist attack have dominated the discussions. Since September 11, 2001, government officials and citizens have been hotly debating the merits of each Terminal, from the sole operating facility in Everett, Massachusetts to the rejection by the local community of a seemingly viable project in Harpswell, Maine. Presently, Terminal projects in the populated areas of Fall River, Massachusetts and Providence, Rhode Island face strong opposition.

The situation begs for a thoughtful, regional approach that carefully balances energy needs with environmental, safety and security considerations. Yet, the FERC, the agency asserting exclusive jurisdiction over the siting of onshore Terminals, has specifically rejected any such notion. Instead, FERC reviews on a case-by-case basis each Terminal proposal. A first-in-time, first-in-right approach, is not likely to yield the best results for New England.

Perhaps more troubling, FERC appears to have ignored or sidestepped critical environmental, safety and security concerns in its preliminarily ruling that the Fall River and Providence proposals pose only "limited adverse environmental impact". Such concerns have been voiced vociferously not only by state and local officials, but also by other agencies from within the Federal Government.

The existing LNG landscape should be unacceptable to each Governor in New England. We cannot abdicate responsibility for the safety, security, and energy needs of our citizens to the current FERC process. The best solution is the adoption and implementation by the Governors of a Regional Approach to LNG in New England. An effective Regional Approach offers many benefits and poses no risks.

Moreover, the urgency of adopting effective LNG emergency response plans for our communities provides further impetus for a Regional Approach, where we can rely on each other's experience and resources to enhance our ability to protect our citizens. In the post-September 11, 2001 environment, emergency response has become a state and municipal responsibility. In Rhode Island, we recently have made it a priority to develop such plans on the state level for each operating LNG facility, and, if required, we will expand them to cover marine activities.

New England Is a Distinct Regional Market

A Regional Approach is predicated on the fact that New England is a distinct and interdependent regional market for natural gas and LNG. The Regional Approach also recognizes the reality that a significant Import Terminal, whether located in one of our States, offshore, or in Canada, likely will affect supplies and prices in the entire New England region.

What makes New England distinct, first and foremost, are regional supply constraints caused by inadequate pipeline infrastructure to deliver gas into the region during periods of peak demand. The inadequacy of both domestic and Canadian pipelines is effectively isolating our region. Even at present, therefore, we must rely on the Import Terminal in Everett, which supplies approximately 20% of New England's natural gas needs.

On the demand side, the New England market is characterized by relatively inelastic uses – residential and gas-fired generation – that do not provide meaningful opportunities for fuel switching in the event of supply disruptions or high prices. Natural gas supplies 18% of New England's primary energy needs, 35% of its home heating needs and 30% of the power generation fuel mix. The brunt of supply disruptions and price eruptions, therefore, are borne directly or indirectly by individual consumers.

In New England, the safety and security consequences of any given Import Terminal could easily affect multiple States. Our citizens are keenly aware of the ongoing, often heated controversy surrounding the continued LNG vessel transport through Boston Harbor and to the densely-populated area around Everett. We are reminded of the necessary post-September 11, 2001 security measures every time the Tobin Bridge is closed for vehicle traffic as an LNG tanker passes below, "escorted" by extensive U.S. Coast Guard and Massachusetts security personnel. The vessel route of any new terminal could readily affect the populated areas, environmental resources, and the navigable waters of a sister State. The proposed Terminal for Fall River is a perfect example of this problem. The tanker route for this proposal passes by several Rhode Island communities, including Newport, Tiverton, and Bristol.

Finally, the possible solutions to our LNG needs are regional in nature. For example, one credible solution may be the construction of a single, sizeable Terminal in a less-populated area of Canada (there are four current proposals) plus an associated pipeline infrastructure for the delivery of the gas to our market. In 2003, Canadian imports accounted for a significant percentage of New England gas consumption. Unlike the current proposals for New England, the Canadian sites are in remote locations, have the support of local government officials, and appear to have industry and financial backing.

The Benefits of a Regional Approach to LNG

The distinct and interdependent nature of the New England energy market thus provides compelling reasons to adopt and implement a Regional Approach to LNG. It is clear that by working together, we will be better able to guide solutions for our energy needs while providing our citizens with all reasonable assurances of safety and security.

- ***Providing a Forum:*** A Regional Approach would provide a forum for discussion of LNG-related issues among our States, with the goal of developing and supporting common views on matters affecting New England. Differences can be explored and narrowed on a reasoned basis, as we aim to incorporate the positions of the energy industry, safety and security experts, business and citizen groups, and federal, state and locally-elected officials.
- ***Developing Regional Guidelines:*** The Regional Approach could develop New England guidelines for what may be acceptable or unacceptable parameters for LNG vessel transport and new Terminals sites. These guidelines would address issues of particular interest to the New England States—for example, safety and security measures for LNG vessel transits and the cost allocation of those measures. While these guidelines are not intended to displace the federal review process, they will provide a baseline for analysis of proposals within our States for the submission of comments to federal regulators. The guidelines also could be used by local communities, business interests and citizens' groups in addressing specific LNG issues in our region.
- ***Advocating Effectively Before FERC:*** A Regional Approach would provide the most effective way to advocate our collective interests before FERC, as well as before the U.S. Coast Guard, the Department of Homeland Security, and other federal agencies. Without a Regional Approach, the direction of LNG in New England would be based on FERC's first-in-time, first-in-right method. Needless to say, a regional "voice" for New England will augment, not replace, the views of affected local communities or other elected officials.
- ***Contesting Approval of Weaver's Cove and KeySpan:*** New England must adopt a coherent approach to challenge FERC's preliminary determinations, subject to certain mitigation measures, that Import Terminals could be sited in Fall River, Massachusetts and Providence, Rhode Island. FERC's approach of our communities' fundamental safety and security concerns is simply unacceptable. To date, however, the opposition to these Terminal sites has been scattered, and seemingly ineffective. A Regional Approach would allow us to mount forceful challenges based upon scientific risk-assessments regarding safety and security issues raised by these Terminals.

- ***Encouraging Coordination with the LNG Industry:*** A Regional Approach would serve as a tool to encourage the LNG industry to develop terminal proposals that are more likely to be acceptable to state and local officials in the affected areas. While the guidelines would not guarantee state or local governmental support for any given Terminal project, they should pave the way for better cooperation between industry and the responsible officials.
- ***Attending Collectively to the Potential “Canadian” Solution:*** The Canadian option begs that we approach the LNG challenge on a regional basis. As noted, a viable solution involves the construction of one or perhaps two LNG terminals in the provinces of southeastern Canada, as well as the pipeline infrastructure to deliver the gas to New England. One proposal is the Bear Head, Point Tupper, NS project backed by Anadarko; another is the Canaport, St. John, NB project backed by Irving Oil and Repsol. While these and other proposed sites in Canada pose logistical challenges, they are free of the safety and security worries that have dogged our “populated” site proposals in New England. Industrial and financial ingenuity in building the required infrastructure, coupled with our close trade relationships with Canada, may place this option highest on our regional list.
- ***Enforcing State and Local Laws:*** A Regional Approach will lead to a more effective enforcement of state and local laws that may affect, or even control, decisions regarding LNG vessel traffic and the siting of LNG Terminals. While FERC has proclaimed exclusive jurisdiction over onshore siting decisions, it may not be able lawfully to preempt certain state and local requirements and affected property and contract rights. For example, FERC may not preempt state enforcement of the federal Coastal Zone Management Act; and is not able to compel stoppage or redirection of vehicle traffic.
- ***Forging Effective and Uniform Emergency Response Plans:*** A Regional Approach would prove very helpful in the adoption of meaningful emergency response plans to address a potential “LNG incident” on water or land. In Rhode Island, we are now in the forefront of developing such a plan for our existing peaking LNG plants by coordinating federal, state, local and private resources. Working jointly, our States would be able to pool and share certain required resources. We also need not “reinvent the wheel” in each instance. The Regional Approach would provide a forum for learning from each other’s experiences in dealing with the contingences and effects of LNG incidents.

While other benefits to a Regional Approach can be assessed (such as more effective access to and use of federal funding), I should reemphasize my view that the effort to develop a Regional Approach poses no real risks.

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Proposal to Develop a Regional Approach

A working group comprised of no more than 10 knowledgeable officials and civil servants in our respective administrations (Working Group) could be assembled. The Working Group should be provided with adequate resources for the task, including the ability to hire expert consultants.

The Working Group could then be tasked with developing a white paper (White Paper) for presentation to the Governors and Premiers on New England LNG issues which incorporates a proposed Regional Approach acceptable to the members. The White Paper would not only describe a Regional Approach – but also, how it should be implemented. It should take into consideration, and may build upon, one or more other white papers already in development.

Given time exigencies, this White Paper should be completed within 90 days of the formation of the Working Group. Comments would be collected from each State and Province and incorporated by the Working Group, if appropriate, within 30 days. Thus, the final White Paper would be submitted to the Governors and Premiers for their consideration within 120 days.

I am hopeful the White Paper will provide the blueprint for New England's Regional Approach to LNG. Process and substantive decisions then can be made regarding implementation of the Approach.

I welcome your reactions. Given the ongoing FERC review of several Terminal proposals in New England, I would appreciate receiving your views by early January. In addition, I propose addressing this issue at the next meeting of the New England Governors' Conference scheduled for February 26, 2005 to March 1, 2005. If you have any questions or would like to discuss this proposal further, please do not hesitate to contact me. Your staff may contact Jeffrey Grybowski, my Deputy Chief of Staff, at (401) 222-8130 or Patty Fairweather, my Deputy Executive Counsel at (401) 222-8114 to discuss this proposal further.

Sincerely,

Donald L. Carcieri
Governor

cc: Mark D. Nielsen, Esq